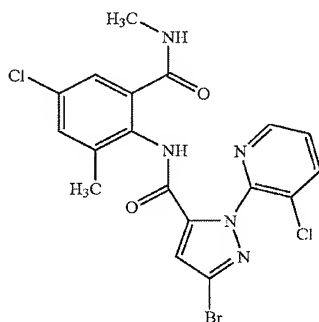


Remarks

In response to the Office Action dated November 15, 2010, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect to prosecute the invention of Group VI, represented by claims 1-4 and 6-20. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

The Office has also required Applicant to elect a single species from among compounds of formula I. Applicants provisionally elect compound I-1-4, shown below, as a species of formula I.



See page 13, line 4 of the as-filed specification.

Applicants also provisionally elect fipronil as the other disclosed species of Group VI.

Of the claims of provisionally elected Group VI, claims 1-4 and 6-19 read on the elected species.

This election is made **with traverse**.

This application is a National Phase Entry Under 35 U.S.C. § 371 and, as such, PCT Rule 13 requiring unity of invention applies. Title 37 of the Code of Federal Regulations states:

(b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combination of categories: . . .

(3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; . . .

37 C.F.R. § 1.475 (b)(1)(3). Elected Group VI contains claims drawn to a composition, a method of controlling animal pests by applying the composition, and a method of preparing a pesticidal composition. Groups I-V and VII-X are also drawn to a composition, a method of controlling animal pests by applying the composition, and a method of preparing a pesticidal composition. All groups share the features of a composition comprising an anthranilamide of Formula I and at least one insecticidally active compound as specified, a process specially adapted for the manufacture of said product and a use of said product under 37 C.F.R § 1.475(b)(1)(3). Thus, there should be no need for restriction of the invention. Applicants therefore respectfully assert that the Groups I-X share unity of invention and the Restriction Requirement is improper.

The Examiner has also stated that the claims lack unity of invention since the claims allegedly are not so linked within the meaning of PCT Rule 13.2 so as to form a single inventive concept. It is said:

Under lack of unity rules, unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. The expression 'special technical features' is defined as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art. The 'contribution over the prior art' is considered with respect to novelty and inventive step.

Here, the technical relationship among the claimed inventions is in the use of anthranilamides of formula (I). However, the anthranilamides of formula (I) are taught as pesticides and taught to be combined with various known pesticides in WO 03/015519 (published 2/27/2003). Therefore, the common technical feature among the ten invention group fails to define a contribution over the prior art and there is no technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features.

(Office Action, page 3). Applicants respectfully disagree, and direct attention to section 1850 of the Manual for Patenting Examining Procedure, which states:

Although lack of unity of invention should be raised in clear cases, it should neither be raised nor maintained on the basis of narrow, literal, or academic approach. . . . For determining the action to be taken by the examiner . . . rigid rules cannot be given and each case should be considered on its merits, *the benefit of any doubt being given to the applicant.* (emphasis added)

MPEP § 1850 (II)(paragraph 4). The claims of the instant application do not qualify as a "clear case" of lacking unity of invention. Each claim shares the special technical feature of a synergistically effective composition comprising an anthranilamide of formula (I) and an insecticidally active compound. Therefore, the composition represents a contribution over the prior art. As stated above the benefit of *any* doubt with respect to unity of invention must be given to the applicant. Applicants therefore

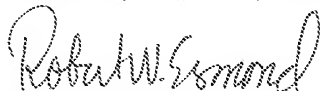
respectfully submit that the composition represents a special technical feature and unity of invention exists between claims 1-20.

Applicants respectfully disagree with the Examiner's argument that the anthranilamides of formula (I) are taught as pesticides and taught to be combined with various known pesticides in WO 03/015519. Applicants respectfully note that a Restriction Requirement is not an Office Action on the merits, and thus, an apparent obviousness or inventive step rejection is improper.

Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

Respectfully submitted,

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